

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**ENTERED**

July 18, 2016

David J. Bradley, Clerk

ERIC S. TUCKER,	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO: H-16-1849
	§	
WILLIAM STEPHENS,	§	
Director of the Texas Department	§	
of Criminal Justice - Correctional	§	
Institutions Division,	§	
Respondent.	§	

**MEMORANDUM AND RECOMMENDATION**

Petitioner Eric S. Tucker has again filed a premature petition for writ of habeas corpus (Dkt. 1). As noted by this court in Civil Action No. 15-1800 (Dkt. 5), and by the district court in Civil Action No. 15-3614 (Dkt. 4), Tucker's direct appeal remains pending. Therefore, his claims have not been exhausted in state court. *Coleman v. Thompson*, 501 U.S. 722 (1991). A recent review of the website for the Texas Court of Criminal Appeals confirms that Tucker's petition for discretionary review remains pending in that court.<sup>1</sup>

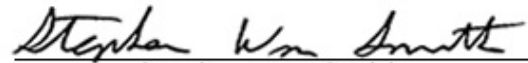
The court recommends that Tucker's petition for writ of habeas corpus be dismissed without prejudice for lack of exhaustion.

The parties have 14 days from service of this Memorandum and Recommendation to file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* Rule 8(b) of the Rules Governing Section 2254 Cases; 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72.

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<sup>1</sup> See <http://www.search.txcourts.gov/Case.aspx?cn=PD-0674-16&coa=coscca>, visited July 18, 2016.

Signed at Houston, Texas on July 18, 2016.

  
Stephen Wm Smith  
United States Magistrate Judge